

[List of Counsel Appears Below]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, a California corporation,

Plaintiff,

v.

MICRO THERAPEUTICS, INC., a Delaware
corporation, DENDRON GmbH, a German
corporation, and ev3 Inc., a Delaware corporation,

Defendants and Counterclaim
And Third Party Plaintiffs,

v.

BOSTON SCIENTIFIC CORPORATION, a
Delaware corporation, and TARGET
THERAPEUTICS, INC., a Delaware corporation,

Third Party Defendants.

Case No.: C 03 05669 (JW) (RS)

**STIPULATION AND [PROPOSED]
ORDER MODIFYING CERTAIN
PRETRIAL DEADLINES**

It is hereby stipulated and agreed by and between Plaintiff and Counterclaim
defendant The Regents of the University of California ("The Regents"), Defendants,
Counterclaim Plaintiffs, and Third Party Plaintiffs Micro Therapeutics, Inc., ev3 Inc., and
Dendron GmbH (collectively "MTI"), and Third Party Defendants Boston Scientific
Corporation and Target Therapeutics, Inc. (collectively "Boston Scientific"), through their
respective counsel of record as follows:

1 In accordance with the Court's suggestion at the July 31, 2007 Case Management
 2 Conference (*see* Dkt. 838), the parties met and conferred for the purpose of identifying and
 3 structuring the issues to be tried in this matter from October 16, 2007, through November 9,
 4 2007. The parties will shortly submit for the Court's review a Joint Submission Regarding
 5 Trial Structure in advance of the bifurcation hearing set for August 20, 2007. However, in
 6 the meantime the parties agree that the following modifications to the Joint Stipulation and
 7 Order to Set Pretrial Deadlines entered by the Court on May 1, 2007 (Dkt. 622) ("May 1
 8 Scheduling Order") will facilitate the streamlining and structuring of issues for trial.

9 Pursuant to the May 1 Scheduling Order, the current deadline for filing and serving
 10 all motions *in limine* is August 20, 2007, and the deadline for responding to such motions is
 11 September 10, 2007. In order to facilitate an informed determination by the Court
 12 concerning the content and sequence of the trial, the parties stipulate and agree that:

- 13 • A first round of motions *in limine* will be served and filed on August 20,
 14 2007. All responses to these motions will be due on August 31, 2007. There
 15 shall be no replies. These motions shall be heard by the Court at the Pretrial
 16 Conference presently set for September 7, 2007.
- 17 • A second round of motions *in limine* will be served and filed on September
 18 10, 2007. All responses to these motions will be due on September 17, 2007.
 19 There shall be no replies. These motions shall be heard by the Court on
 20 September 24, 2007.

21 The May 1 Scheduling Order also established September 4, 2007, as the deadline for
 22 the parties to exchange initial witness lists, initial deposition or other discovery excerpts,
 23 initial exhibit lists, proposed *voir dire* questionnaires, proposed jury instructions and
 24 proposed verdict forms. The parties stipulate and agree that:

- 25 • No *in limine* motions, witness lists, deposition or other discovery excerpts,
 26 exhibit lists, proposed *voir dire* questionnaires, proposed jury instructions, or
 27 proposed verdict forms, or any responses, counter-designations, or objections
 28 thereto, shall be exchanged, served or filed by the parties with respect to the

1 non-*Walker Process* antitrust issues (e.g., *Handgards*/sham litigation, relevant
2 market, intent to monopolize the relevant market, antitrust injury and
3 damages, conspiracy, and dangerous probability of achieving monopoly
4 power), until further order of the Court.

- 5 • The parties have not reached an agreement regarding whether the *Walker*
6 *Process* fraud issues or the inequitable conduct issues should be tried in a first
7 or later phase of the trial. The parties' respective positions are set forth in
8 more detail in the Joint Submission Regarding Trial Structure.

9 Finally, the May 1 Scheduling Order established August 17, 2007, as the deadline
10 for the parties to file a Joint Preliminary Pretrial Statement, and also set a Preliminary
11 Pretrial Conference for August 31, 2007. Because the Court rescheduled the Pretrial
12 Conference for September 7, 2007, the parties stipulate and agree that the Joint Preliminary
13 Pretrial Statement will be due on August 24, 2007. The parties intend to seek the Court's
14 guidance as to the content of the Joint Preliminary Pretrial Statement at the August 20, 2007
15 bifurcation hearing.

1 **IT IS SO STIPULATED.**

2
3 DATED: August 16, 2007

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11
12 DATED: August 16, 2007

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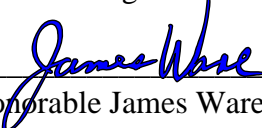
19
20
21 DATED: August 16, 2007

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ORDER

Pursuant to the Stipulation it is so ordered. The 9/7/2007 and 10/9/2007 Final Pretrial dates have been vacated. The Court sets a Final Pretrial Conference for 9/24/2007 at 4:00 PM. The parties shall file a joint pretrial statement by 9/14/2007. The Motion in Limine hearings are scheduled as stipulated. The timing is as follows: Motion in Limine Hearing on 9/7/2007 at 9:00 AM. Motion in limine hearing on 9/24/2007 at 4:00 PM.

Date: August 20, 2007



The Honorable James Ware
United States District Judge